

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

SEP 23 2011

BROOKLYN OFFICE

Frank Zulferino,

Plaintiff,

v.

Peter T. Roach & Associates, P.C.; and  
DOES 1-10, inclusive,

Defendants.

Civil Action No. **CV 11-4656**

**SUMMONS ISSUED**  
**COMPLAINT**

**WEXLER, J.**

**WALL, M.J.**

For this Complaint, the Plaintiff, Frank Zulferino, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of the Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendants and their agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

4. The Plaintiff, Frank Zulferino ("Plaintiff"), is an adult individual residing in Mastic Beach, New York, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Peter T. Roach & Associates, P.C. ("PTA"), is a New York business

entity with an address of 125 Michael Drive, Suite 105, Syosset, New York 11791 , operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by PTA and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. PTA at all times acted by and through one or more of the Collectors.

### **ALLEGATIONS APPLICABLE TO ALL COUNTS**

#### **A. The Debt**

8. A financial obligation (the “Debt”) was incurred to a creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to PTA for collection, or PTA was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

#### **B. PTA Engages in Harassment and Abusive Tactics**

12. On December 28, 2007 District Court of the County of Suffolk issued a default judgment against Plaintiff.

13. On March 31, 2008 the judgment was vacated and the case against Plaintiff was dismissed due to a lack of personal jurisdiction (CPLR §5015(a)(1) and CPLR §3211(a)(8)).

14. However, in March 2011 Defendants attempted to collect on the judgment via

services of Suffolk County Sheriff.

**C. Plaintiff Suffered Actual Damages**

15. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

16. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

**COUNT I**  
**VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692, et seq.**

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. The Defendants' conduct violated 15 U.S.C. § 1692e(2) in that Defendants misrepresented the character, amount and legal status of the Debt.

19. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

20. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

21. The Plaintiff is entitled to damages as a result of Defendants' violations.

**COUNT III**  
**VIOLATIONS OF NEW YORK GBL § 349**  
**ENGAGING IN UNLAWFUL DECEPTIVE PRACTICES AND ACTS**

22. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

23. The acts, practices and conduct engaged in by the Defendants and complained of herein constitute “deceptive acts and practices” within the meaning of Article 22A of the General Business Law of the State of New York, NY GBL § 349.

24. The Defendants willfully and knowingly engaged in conduct constituting deceptive acts and practices in violation of NY GBL § 349.

25. The Plaintiff has suffered and continues to suffer actual damages as a result of the foregoing acts and practices, including damages associated with, among other things, humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment caused by the Defendants.

26. By virtue of the foregoing, the Plaintiff is entitled to recover actual damages, trebled, together with reasonable attorneys’ fees.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff respectfully prays that judgment be awarded in the Plaintiff’s favor and against the Defendants as follows:

1. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Against each of the named the Defendants, awarding the Plaintiff statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3. Against the named the Defendants, jointly and severally, awarding the Plaintiff actual damages, trebled, pursuant to NY GBL § 349;
4. Against the named the Defendants, jointly and severally, awarding the Plaintiff recovery of the costs of litigation and reasonable attorney’s fees pursuant to 15 U.S.C. § 1692k(a)(3);

5. Against the named the Defendants, jointly and severally, awarding the Plaintiff punitive damages in such amount as is found appropriate; and

6. Granting the Plaintiff such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: September 20, 2011

Respectfully submitted,

By  \_\_\_\_\_

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